

Permit No: NDR05-0000
Effective Date: April 1, 2010
Expiration Date: March 31, 2015

AUTHORIZATION TO DISCHARGE UNDER THE
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33-16-01 of the North Dakota Department of Health rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code,

facilities both qualifying for and satisfying the requirements identified in Part I of this permit

are authorized to discharge stormwater associated with **industrial activity**.

to waters of the state

in accordance with conditions set forth in this permit.

This permit and the authorization to discharge shall expire at midnight,

March 31, 2015.

Signed this 15 day of March, 2010.



Dennis R. Fewless, Director
Division of Water Quality

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OUTFALL DESCRIPTION

Stormwater Drainage Outfall(s) – Active. Stormwater discharges. The stormwater discharges from a pipe, ditch, or other discrete conveyance to receiving waters.

PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
Sampled discharge points	Discharge Monitoring Report	Annually	January 31, 2011
Sampled discharge points (Primary Commercial Service Airports and US Air Bases)	Discharge Monitoring Report	Annually	June 30, 2011
New Applicants	Application	1/permit cycle	7 Days prior to start of operation

Applications and reports shall be submitted to the Department at the following address:

North Dakota Department of Health
Division of Water Quality
918 East Divide Ave
Bismarck, ND 58501-1947

I. PERMIT COVERAGE AND LIMITATIONS

A. Discharges Covered

1. This permit applies to all areas within the jurisdiction of the state of North Dakota.
2. This permit applies to discharges composed (either in whole or in part) of stormwater associated with industrial activity as defined in Title 40 of the Code of Federal Regulations (CFR), Part 122.26(b)(14) except for the following:
 - a. Operations involved in mining or extracting activities, including processes to prepare materials for use, Standard Industrial classification (SIC) Codes 10 through 14;
 - b. Portable or temporary concrete or asphalt batch plants, SCI Codes 1611 and 2951.
 - c. Stormwater discharges from construction activity as defined in 40 CFR 122.26(b)(14)(x).
3. Certain non-stormwater discharges from facilities covered by this permit and meeting the requirements specified in Part II.A.

B. Coverage Limitations

This permit does not cover the following activities:

1. Stormwater discharges from facilities or activities subject to a nationally established effluent limitations guideline or other performance standard under 40 CFR subchapter N.
2. Discharges or releases that are not stormwater except those non-stormwater discharges authorized under Part II.A.
3. Discharges to waters for which there is a total maximum daily load (TMDL) allocation are not covered unless you develop a Stormwater Pollution Prevention (SWPP) plan that is consistent with the assumptions and requirements in the approved TMDL. To be eligible for coverage under this general permit, the SWPP plan must incorporate the conditions applicable to the discharge necessary for consistency with the assumptions, allocations and requirements of the TMDL.
4. The placement of fill into waters of the state requiring local, state, or federal authorizations (such as U.S. Army Corps of Engineers Section 404 permits).
5. This permit does not substitute for obligations under the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), or National Historic Preservation Act (NHPA). It is your responsibility to ensure the project and resulting discharges comply with the respective requirements.
6. Stormwater discharges that the Department determines will cause, or have the reasonable potential to cause or contribute to, violations of water quality standards.

C. Obtaining Coverage and Authorization Effective Date

1. To obtain authorization under this general permit for stormwater discharges you must submit a complete application and develop a Stormwater Pollution Prevention (SWPP) plan in accordance with Part II.C of this permit. A plan must be in place as a condition of this permit and a copy of the plan must be retained by the operator of the facility. A copy of the plan must be submitted with the application for certain facilities as described in Part I.D.3.
2. Permit coverage will become effective 7 days after you submit a complete application unless otherwise notified by the Department (based on the department receipt date).
3. Upon the effective date of permit coverage you as the permit applicant are authorized to discharge stormwater from eligible activities under the terms and conditions of this permit.

D. Application Contents

1. You may use a Notice of Intent (NOI) form (or photo copy thereof) to complete your application. The NOI form (SFN 18686) is available at:
<http://www.ndhealth.gov/WQ/Storm/StormWaterHome.htm>.
2. The application shall contain, at a minimum, the following information:
 - a. Name and mailing address of the owner or operator
 - b. Contact name and phone number
 - c. Name of facility or site
 - d. A brief description of the nature of business or activity
 - e. Standard Industrial Classification (SIC) Code
 - f. Acreage of the facility dedicated to industrial activity.
 - g. Location of the site(s), including the county, latitude and longitude or township, range, section, and 1/4 section
 - h. Name of receiving water(s) or the name of the receiving municipal storm sewer system and receiving water(s)
 - i. The signature of the applicant(s), signed in accordance with the Signatory Requirements in Part IV.A.6 of this permit.
3. You must include a copy of the Stormwater Pollution Prevention (SWPP) plan if either of the following apply:
 - a. The facility will occupy 50 acres or more (area dedicated to industrial activities); or
 - b. The facility will have a discharge point located within 2000 ft of, and flow to, a water body listed as impaired under section 303(d) of the Federal CWA due to sediment or parameters associated with sediment transport (see 303(d) List on the Department's website).
4. Local agencies may operate a local stormwater management program and impose local requirements. The local authority may require that a copy of the application be provided to them for review and approval.

E. Termination of Coverage

1. Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) form or other written request identifying the facility, reason why the permit is no longer needed and signed in accordance with Part IV.A.6 of this permit. Compliance with the conditions of this permit is required until a NOT is submitted.
2. Permittees may submit a NOT only after one of the following conditions have been met:
 - a. No Exposure. A no exposure certification made in accordance with 40 CFR 122.26(g) will constitute a request for termination of coverage under this permit. To qualify for the conditional exemption, all industrial materials and activities must be protected to prevent exposure to stormwater. A facility operator must submit a No Exposure Certification form (SFN 52314) to the Department to end permit coverage under conditional exclusion provided for no exposure of industrial activities and materials.
 - b. Elimination of sources. If stormwater discharges associated with industrial activity have been eliminated, the request must include the name and address of the operator, the name and location of the facility, the permit number, and a description of why coverage is not necessary (i.e., plant closure, ceasing industrial activity, removing equipment or storage, etc.). The request must be signed in accordance with the signatory conditions of this permit.

II. STORMWATER DISCHARGE REQUIREMENTS

A. Prohibition on Non-Stormwater Discharges.

The discharge of wastewater from processing operations or sanitary facilities is not authorized by this permit. The following non-stormwater discharges may be authorized if the non-stormwater sources are identified in the SWPP plan with a description of the pollution prevention measures to be implemented: fire-fighting, fire hydrant flushing, potable water line flushing, infrequent building and equipment wash down without detergents, uncontaminated foundation drains, springs, lawn watering and air conditioning condensate.

B. Releases in Excess of Reportable Quantities.

This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302. Any release of a hazardous substance, including a release in a stormwater discharge, must be reported to the agencies identified in Part IV.A.7. The potential discharge of hazardous substances in stormwater discharges shall be minimized by including measures in the SWPP plan to prevent and respond to releases of hazardous substances. Should a reportable quantity release occur, the SWPP plan shall be revised to prevent the reoccurrence of such a release.

C. Stormwater Pollution Prevention Plans.

All facilities covered by this permit shall prepare and implement Stormwater Pollution Prevention (SWPP) plans. The SWPP plan and revisions are subject to review by the Department. The major objectives of the plan are to identify potential sources of stormwater pollution associated with industrial activity and ensure that practices are implemented to minimize the contribution of pollutants. Stormwater management measures developed under other regulatory programs can be included in the SWPP plan or incorporated by reference. The Stormwater Pollution Prevention Plan shall include the following:

1. Site Description.

- a. Provide a description of the type of activity conducted at the facility.

- b. A site map indicating each outfall, drainage patterns, the outline of the drainage area for each stormwater outfall, areas used for storage or disposal of materials, and any existing or planned structures to reduce stormwater contamination. Clearly identify property boundaries, natural drainage ways receiving discharges, section, township, and range or lines of latitude and longitude. The map or drawing must be of suitable scale and quality to show the required information.
- c. Identify the individual(s) responsible for implementing, maintaining and revising the SWPP plan.
- d. Facilities that have a discharge point within 2000 feet of, and flow to, a water body listed as impaired under section 303(d) of the Federal Clean Water Act, must identify the water body and impairment in the plan. The Department's 303(d) list may be found at the following website under Integrated Reports:
www.ndhealth.gov/WQ/SW/Z2_TMDL/Integrated_Reports/B_Integrated_Reports.htm.

2. Description of Potential Pollutant Sources.

- a. Identify materials that are processed, handled, stored, or disposed at your site that have the potential to be released with stormwater.
- b. Provide an assessment of the various sources at the site that could contribute pollutants to stormwater runoff. Each of the following shall be evaluated for the reasonable potential to contribute pollutants: loading/unloading operations, outdoor storage, disposal and processing activities, significant dust generating activities, and disturbed area vulnerable to erosion. Factors to consider in assessing potential sources are: the nature and quantity of material, degree of exposure to stormwater, history of spills or leaks, and any measures in place to control stormwater.
- c. Identify sources of non-stormwater discharges that may be present and controls used to minimize the impact of the source. If the non-stormwater discharge is not authorized include measures to remove the illicit discharge.
- d. For facilities subject to Emergency Planning and Community Right-to-Know Act Section 313 (EPCRA 313) requirements, the potential pollutant sources for which you report under EPCRA 313 must be identified in your description of potential pollutant sources.

3. Stormwater Controls.

The plan shall describe the existing or planned controls for each source or operation that may contribute pollutants in stormwater runoff. A combination of Best Management Practices (BMPs) and structural controls must be implemented as appropriate to reduce pollutant contributions in stormwater. Such practices include:

- a. Good housekeeping practices to maintain a clean and orderly facility. Litter, debris, chemicals and parts must be handled properly to minimize exposure to stormwater. This includes measures to reduce and remove sediment tracked off-site by vehicles, and the generation of dust.
- b. Preventive maintenance practices must be provided for the inspection and maintenance necessary to ensure the proper operation of stormwater management devices (e.g., oil-water separators, catch basins, and silt fences) as well as equipment used or stored at a site.
- c. Spill prevention and response procedures must be developed where potential spills can occur. Where appropriate, specific handling procedures, storage requirements, spill containment and cleanup procedures shall be identified.

- d. Employee training informs personnel of their responsibility in implementing the practices and controls included in the plan such as spill response, good housekeeping, preventative maintenance, and sediment control practices. Employee training should be provided at least annually, as new employees are hired or as necessary to ensure compliance with the plan and the general permit.
- e. Sediment and erosion controls must be implemented on areas of operations vulnerable to erosion. Areas vulnerable to erosion include those with little or no vegetation, steep slopes, or those with concentrated runoff flows such as ditches and culverts. The plan shall identify the control measures that will be used to minimize the release of sediment from the site (such as sediment basins, rock check dams, silt fences, vegetative buffers, permanent seeding, grassed swales, etc.) as well as methods to recover off-site sediment accumulations.
- f. Minimize exposure of industrial materials and activities to the extent practicable. Identify practices or site features (such as storm resilient shelters) which limit the exposure or contact of stormwater with materials or activities.
- g. Stormwater Management. The plan shall include a description of practices that have been installed (or will be installed during construction) to control pollutants in stormwater discharges from the facility or offset the increase in runoff due to impervious area at the facility. Such practices may include: stormwater ponds; flow reduction by use of open vegetated swales and natural depressions; infiltration of runoff on-site; and sequential systems which combine several practices. The plan shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed pre-development levels.

All control measures must be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the permittee must replace or modify the control for the site situation. You may deviate from the manufacturer's specifications if you provide justification for the deviation and document the rationale for the deviation in the SWPP plan.

4. Maintenance.

All structural stormwater controls and other protective measures identified in the plan must be maintained in effective operating condition. The plan must indicate as appropriate the maintenance or clean out interval for sediment controls. If site inspections, required in this permit, identify BMPs that are not operating effectively, maintenance shall be arranged and accomplished as soon as practicable.

5. Inspections.

The plan must provide for site inspections to monitor the condition of stormwater discharge outlets and the effectiveness of stormwater controls. The permittee shall ensure that personnel conducting site inspections are familiar with permit conditions and the proper installation and operation of control measures. The site inspection frequencies and requirements are provided in Part III of this permit, Self-Monitoring and Reporting.

6. Plan Review and Revisions.

- a. The plan shall be signed in accordance with the signatory requirements, Part IV.A.6, and retained on-site for the duration of activity at the permitted location.

- b. The permittee shall make plans available upon request to the Department, EPA, or, in the case of discharges to a municipal separate storm sewer system, to the operator of the municipal system.
- c. The permittee shall amend the SWPP plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the state. The plan shall also be amended if the plan is found to be ineffective in controlling pollutants present in stormwater.
- d. A plan implemented under the previous version of this permit may be continued under this permit. Facilities operating under an existing SWPP plan are responsible for incorporating any changes necessitated by the conditions described in this permit. Any such changes must be implemented within 180 days of this permit's effective date.

D. Additional Terms and Conditions

- 1. Salt Storage Piles. All salt storage piles used for deicing or other industrial or commercial purposes shall be enclosed or covered to prevent exposure to precipitation. Salt storage piles do not need to be covered or enclosed when adding to or taking materials from the pile and when stormwater drainage from the pile is contained on-site.
- 2. Bulk storage structures for petroleum products and other chemicals shall have adequate leak and spill protection to prevent any spilled materials from entering waters of the state.
- 3. The stormwater controls are expected to withstand and function properly during precipitation events of less than or equal to the 2 year, 24 hour storm event. The release of sediment or other materials due to such storm events should be minimal. The 2 year, 24 hour rainfall event in North Dakota ranges from about 1.9 inches in the west to 2.3 inches in the east.
- 4. Dewatering or basin draining (e.g., pumped discharges, trench/ditch cuts for drainage) related to the permitted activity must be managed with the appropriate BMPs such that the discharge does not adversely affect the receiving water or downstream landowners. The permittee(s) must operate the discharge to minimize the release of sediment and provide energy dissipation measures to adequately protect the outlet from erosion. Dewatering is limited to stormwater and small amounts of ground water that may collect on-site and those sources identified in Part II.A. A separate permit must be obtained for the release of water from other sources.
- 5. All stormwater discharges must comply with the requirements, policies, or guidelines, of municipalities and other local agencies. Any discharges of stormwater to storm drainage systems or other water courses under local jurisdiction, including those subject to municipal stormwater management programs developed to comply with NDPDES permits, must comply with local requirements.

III. SELF-MONITORING AND REPORTING

A. Inspection Requirements

- 1. A comprehensive inspection of the permitted facility's stormwater control system shall be made at least once (1) during a 6 month period. The 6 month periods shall consist of the first half of the year (January thru June) and the second half of the year (July thru December). At least one of the inspections should be conducted within 48 hours of a rainfall or snowmelt event resulting in a stormwater discharge.

2. The personnel conducting site inspections must be familiar with permit conditions and the proper installation and operation of control measures.
3. The inspections shall include discharge outlets from areas used for industrial activities, areas used for storage of materials, structural control measures, and vehicle maintenance areas. These areas shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. The control measures identified in the plan shall be observed to ensure that they are operating correctly and in serviceable condition. If necessary, the SWPP plan shall be revised based on the observations and deficiency noted during the inspections.
4. A record shall be made summarizing the scope of inspection, major observations relating to the SWPP plan and any corrective actions taken. The records must be retained for a period of at least 3 years. At a minimum the inspection record (or report) shall include:
 - a. Date and time of inspections;
 - b. Name of person(s) conducting inspections;
 - c. Inspection findings, including major observations relating to the SWPP plan, condition of stormwater controls, deficiencies noted and recommendations for corrective action(s);
 - d. Corrective actions taken (including dates, times, and party completing maintenance activities); and
 - e. Documentation that the SWPP plan has been amended when substantial changes are made to stormwater controls or other BMPs in response to inspections.
5. A permittee may submit an alternative inspection plan for inactive operations or sites where an employee is not normally stationed or does not routinely visit. A copy of the SWPP plan and proposed inspections plan shall be submitted to the Department 30 days prior to implementing an alternative inspection plan. Any alternative plan must provide an inspection interval appropriate for the potential pollutant sources at the site, but not less than once in three years.

B. Sampling Requirements

1. Only those permittees with industrial activities identified in this section are required to sample stormwater discharges as a condition of this permit. The minimum monitoring frequency is annual except for discharges from large air transportation facilities, and facilities directed by the Department to follow another schedule.
 - a. Stormwater sampling is required for the facilities (industrial activities) identified below. The specific monitoring conditions and parameter list for each facility group is outlined in Appendix 1.
 - Coal Pile Runoff (*Any stormwater discharge from coal storage piles*)
 - Wood and Paper Products (*SIC 2421-2426, mills; 2491 preserving; 2493, reconstituted wood products; and 2631, paperboard*)
 - Chemical and Related Products (*SIC 281, industrial inorganic chemicals; 282, plastics and synthetic materials; 284, soaps and detergents; and 287, agricultural chemicals*)
 - Food and Related Products (*SIC 2011, meat packing plants; 2015, poultry processing; and 207, fats and oils*)
 - Primary Metal Industries (*SIC 33*)

- Hazardous Waste Treatment, Storage and Disposal
 - Landfills and Land Application
 - Automobile Salvage Yards (*SIC 5015*)
 - Scrap Recycling Facilities (*SIC 5093*)
 - Air Transportation (*Regional and Primary Commercial Airports and Air Force Bases*)
- b. The Department may direct, by written notification, any other facility covered by this permit to conduct stormwater sampling. Instances where sampling could be required include, but are not limited to, any of the following:
- Analytical data is needed to estimate water quality impacts,
 - Discharges are shown to be generally of poor quality, or
 - The SWPP plan is delinquent or determined to be insufficient.
2. The stormwater sampling, where required, must conform to the requirements, procedures and conditions contained in Appendix 2.

C. Effluent Limitations

1. The quality of stormwater discharges associated with industrial activity shall reflect the best which is attainable through the proper implementation of all items in the SWPP plan for the facility.
2. Any discharge composed in whole or in part of coal pile runoff shall not exceed a daily maximum concentration of 50 milligrams per liter (mg/l) for total suspended solids. The pH, an instantaneous measurement, shall remain within the range of 6.0 to 9.0. Any untreated overflow from facilities designed, constructed and operated to treat the volume of coal pile runoff associated with a 10 year, 24 hour storm event shall not be subject to the total suspended solids limitation.

D. Reporting

1. Facilities covered by this permit, other than those required to sample under Part III.B, are not required to submit reports to the Department on a routine basis. The Department may require reports on a case-by-case basis to gauge permit adequacy such as inspection results summaries, SWPP plans or portions thereof. In addition, local authorities may require routine reporting to evaluate discharges to their storm sewer system.
2. Discharge Monitoring Reports. Facilities that are required to conduct sampling under this permit (Part III.B.1) must submit an annual discharge monitoring report. The report shall summarize monitoring results obtained during the report period. If no discharge occurs during a reporting period, "no discharge" shall be reported. Monitoring reports for a sampling period shall be required from all facilities that are covered by this permit for any portion of that reporting period. The monitoring (or reporting period) and report due dates are as follows:
 - a. For the Primary Commercial Service Airports and US Air Bases the annual report shall cover the period from June 1 to May 31 and be submitted by June 30.
 - b. For all other facilities, the annual report shall cover a period from January 1 to December 31 and be submitted to the Department by January 31.

3. Report Submittal. Signed copies of the discharge monitoring reports, and all other reports required herein, shall be submitted to the Department at the following address:

North Dakota Department of Health
Division of Water Quality
918 E. Divide Ave., 4th Floor
Bismarck, ND 58501-1947

IV. STANDARD CONDITIONS

A. COMPLIANCE RESPONSIBILITIES BP 2008.09.18

- 1. Duty to Comply**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

- 2. Proper Operation and Maintenance**

The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. If necessary to achieve compliance with the conditions of this permit, this shall include the operation and maintenance of backup or auxiliary systems.

- 3. Planned Changes**

The Department shall be given advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance. Any anticipated facility expansions, production increase, or process modifications which might result in new, different, or increased discharges of pollutants shall be reported to the Department as soon as possible. Changes which may result in a facility being designated a "new source" as determined in 40 CFR 122.29(b) shall also be reported.

- 4. Duty to Provide Information**

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.

- 5. Records Retention**

All records and information (including calibration and maintenance) required by this permit shall be kept for at least three years or longer if requested by the Department or EPA.

- 6. Signatory Requirements**

All applications, reports or information submitted to the Department shall be signed and certified.

- a. All permit applications shall be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official.
- b. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (1) The authorization is made in writing by a person described above and submitted to the Department; and
- (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

If an authorization under "Compliance Responsibilities-Signatory Requirements" section is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted herein. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

7. Noncompliance Notification

The permittee shall report any noncompliance which may seriously endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The report shall be made to the EPA, Region VIII, Emergency Response Branch at 1.800.424.8802 and the state of North Dakota, Division of Homeland Security at 1.800.472.2121. The following occurrences of noncompliance shall be reported by telephone to the Department at 701.328.5210 by the first workday (8:00 a.m.-5:00 p.m. Central time) following the day the permittee became aware of the circumstances:

- a. Any lagoon cell overflow or any unanticipated bypass which exceeds any effluent limitation in the permit (see "Compliance Responsibilities-Bypass of Treatment Facilities" section);
- b. Any upset which exceeds any effluent limitation in the permit (see "Compliance Responsibilities-Upset Conditions" section); or
- c. Violation of any daily maximum effluent or instantaneous discharge limitation for any of the pollutants listed in the permit.

A written submission shall also be provided within five days of the time that the permittee became aware of the circumstances. The written submission shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times;
- c. The estimated time noncompliance is expected to continue if it has not been corrected; and
- d. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Reports shall be submitted to the address in the "Reporting and Recordkeeping Requirements-Reporting" section. The Department may waive the written report on a case by case basis if the oral report has been received within 24 hours by the Department at 701.328.5210 as identified above.

All other instances of noncompliance shall be reported no later than at the time of the next Discharge Monitoring Report submittal. The report shall include the four items listed in this subsection.

8. Bypass of Treatment Facilities

Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to any of the following provisions in this section.

Bypass exceeding limitations-notification requirements.

- a. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of bypass.
- b. Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required in the "Compliance Responsibilities-Noncompliance Notification" section.

Prohibition of Bypass. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- c. The permittee submitted notices as required in the "Bypass of Treatment Facilities-Anticipated Bypass" section.

The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three (3) conditions listed above.

9. Upset Conditions

An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- a. An upset occurred and the permittee can identify its cause(s);
- b. The permitted facility was, at the time being, properly operated;
- c. The permittee submitted notice of the upset as required under "Compliance Responsibilities-Noncompliance Notification" section; and
- d. The permittee complied with any remedial measures required under "Compliance Responsibilities-Duty to Mitigate" section.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

10. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The permittee, at the Department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.

11. Removed Materials

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the state. The permit issuing authority shall be contacted prior to the disposal of any sewage sludges. At that time, concentration limitations and/or self-monitoring requirements may be established.

12. Duty to Reapply

Any request to have this permit renewed should be made six months prior to its expiration date.

B. GENERAL REQUIREMENTS

1. Right of Entry

The permittee shall allow Department and EPA representatives, at reasonable times and upon the presentation of credentials if requested, to enter the permittee's premises to inspect the wastewater treatment facilities and monitoring equipment, to sample any discharges, and to have access to and copy any records required to be kept by this permit.

2. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department and EPA. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

3. Transfers

This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent Department approval. The current permit holder should inform the new controller, operator, or owner of the existence of this permit and also notify the Department of the possible change.

4. New Limitations or Prohibitions

The permittee shall comply with any effluent standards or prohibitions established under Section 306(a), Section 307(a), or Section 405 of the Act for any pollutant (toxic or conventional) present in the discharge or removed substances within the time identified in the regulations even if the permit has not yet been modified to incorporate the requirements.

5. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. This includes the establishment of limitations or prohibitions based on changes to Water Quality Standards, the development and approval of waste load allocation plans, the development or revision to water quality management plans, changes in sewage sludge practices, or the establishment of prohibitions or more stringent limitations for toxic or conventional pollutants and/or sewage sludges. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

6. Need to Halt or Reduce

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

7. State Laws

Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 510 of the Act.

8. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

9. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

10. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

11. General Permits

Coverage under this permit may be modified, revoked and reissued, or terminated for cause. The Department may require any operator covered by this permit to apply and obtain an individual or alternative general permit if:

- a. The discharge is not in compliance with the conditions of the general permit
- b. Conditions or standards have changed so that the discharge no longer qualifies for a general permit
- c. Information becomes available which indicates that the permittee's discharge has a reasonable potential to contribute to an exceedance of a water quality standard

When an individual NDPDES permit is issued to an operator otherwise subject to this permit or the operator is approved for coverage under an alternative NDPDES general permit, the applicability of this permit to the operator is automatically inactivated upon the effective date of the individual permit or coverage under the alternative general permit.

12. Renotification

Any request to retain coverage under a renewal of this permit shall be made in writing to the Department at least 15 days prior to the expiration date of this permit. Upon request by the Department, a new Notice of Intent shall be submitted.

V. DEFINITIONS

"303d List" or "Section 303d List" means a list of North Dakota's water quality-limited waters needing total maximum daily loads or TMDLs developed to comply with section 303d of the Clean Water Act. A copy of the list is available on the state's web site at:

www.ndhealth.gov/WQ/SW/Z2_TMDL/Integrated_Reports/B_Integrated_Reports.htm.

"BMP" or "Best Management Practices" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Department" means the North Dakota Department of Health, Division of Water Quality.

"Energy Dissipation" means methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: concrete aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

"Grab" sample, for monitoring requirements, means a single "dip and take" sample collected at a representative point in the discharge stream.

"NDPDES" means North Dakota Pollutant Discharge Elimination System.

"No Exposure" means that all industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff.

"Non-stormwater discharges" means discharges other than stormwater. The term includes both process and non-process sources. Process wastewater sources that require a separate NDPDES permit include, but are not limited to industrial processes, domestic facilities and cooling water. Non-stormwater sources that may be addressed in this permit include, but are not limited to: fire-fighting, fire hydrant flushing, potable water line flushing, infrequent building and equipment wash down without detergents, uncontaminated foundation drains, springs, lawn watering and air conditioning condensate.

"Operator" means the owner, party, person, general contractor, corporation, or other entity that has operational control over a facility. The operator is responsible for ensuring compliance with all conditions of the permit and with development and implementation of the "stormwater pollution prevention plan".

"Primary Commercial Service Airports" means the four major airports with commercial service and two military airfields in North Dakota. The Bismarck Airport, the Fargo Airport, the Grand Forks Airport, the Minot Airport, the Grand Forks Air Base and the Minot Air Base are included in this definition.

"Regional Commercial Service Airports" are the airports located in the cities of Devils Lake, Dickinson, Jamestown, and Williston.

"Severe property damage" means substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Significant materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of CERCLA;

any chemical the facility is required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

"Significant spills" includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see 40 CFR 302.4).

"Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater Associated with Industrial Activity" means stormwater runoff, snow melt runoff, or surface runoff and drainage from industrial activities as defined in 40 CFR § 122.26(b)(14). Industrial facilities (including industrial facilities that are federally or municipally owned or operated that meet the description of the facilities listed in paragraph (i)-(xi)) include those facilities designated under 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for the purposes of this subsection:

- (i) Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this paragraph);
- (ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;
- (iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations meeting the definition of a reclamation area under 40 CFR 434.11(1)) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator;
- (iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;
- (v) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA;
- (vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
- (vii) Steam electric power generating facilities, including coal handling sites;
- (viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i) - (vii) or (ix) - (xi) of this subsection are associated with industrial activity;
- (ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;
- (x) Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale;
- (xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"Waters of the state" means any and all surface waters that are contained in or flow in or through the state of North Dakota as defined in NDCC 61-28-02. This definition includes all water courses, even if they are usually dry.

"You" means the owner, operator or permittee as appropriate.

Appendix 1 – Industry specific sampling requirements and SWPP plan considerations

The industry types identified in this appendix are required to collect samples of stormwater discharges as part monitoring requirements listed in Part III.B of the permit. The specific sampling parameters and monitoring conditions applicable to each industry type are listed below.

The sampling procedures and conditions applicable to all facilities sampling stormwater discharges are outlined in Appendix 2. In general, operators must collect grab samples of stormwater discharges at least once a year for the parameters listed for their industry type. Appendix 2 also provides conditions for reduction in monitoring based on sample history and “benchmark” values.

Benchmark concentrations should not be interpreted as stormwater effluent limitations, individual wastewater effluent limitations, or as state water quality standards. Benchmark concentrations provide an appropriate level to determine whether a facility’s stormwater pollution prevention measures are effective. A pollutant concentration that is above the benchmark value represents a potential water quality concern and the need to improve a facility’s SWPP plan.

1. Coal Pile Runoff

Applicability: Stormwater discharges from coal storage piles.		
Required Parameter	Benchmark Value	Discharge Limit
• pH		between 6.0 and 9.0 S.U.
• Total Suspended Solids		50 mg/L
• Copper, Total ¹	0.0636 mg/L	
• Nickel, Total ¹	1.417 mg/L	
• Zinc, Total ¹	0.117 mg/L	
Any untreated overflow from facilities designed, constructed and operated to treat the volume of coal pile runoff associated with a 10 year, 24 hour storm event shall not be subject to the total suspended solids limitation.		

2. Wood and Paper Products

Applicability: Facilities with SIC code 2421-2426 (Sawing/Planning mills), 2491 (Wood Preserving), 2493 (Reconstituted Wood Products), and 2631 (Paperboard Plants).		
Required Parameter	Benchmark Value	
• pH	6.0 – 9.0 S.U.	
• Total Suspended Solids	100 mg/L	
• Chemical Oxygen Demand	120 mg/L	
• Phenols, Total	1.0 mg/L	
• Arsenic, Total	0.1685 mg/L	
• Copper, Total ¹	0.0636 mg/L	
The sampling for Phenols, Arsenic and Copper must be tested at wood preserving facilities only.		

3. Chemical and Related Products

Applicability: Facilities with SIC code 281 (Industrial Inorganic Chemicals), 282 (Plastics and Synthetic Materials), 284 (Soaps and Detergents) and 287 (Agricultural Chemicals).		
Required Parameter	Benchmark Value	
• pH	6.0 – 9.0 S.U.	
• Total Suspended Solids	100 mg/L	
• Total Phosphorus	2.0 mg/L	
• Ammonia ² as N	8.41 mg/L	
• Nitrates as Nitrogen	0.68 mg/l	
• Chemical Oxygen Demand	120 mg/L	
• Zinc, Total ¹	0.117 mg/L	
Facility must also test stormwater for any parameter that may be limited on discharges subject to effluent guideline limitation.		

4. Food and Related Products

Applicability: Facilities with SIC code 2011 (Meat Packing Plants), 2015 (Poultry Slaughtering and Processing), and 207 (Fats and Oils).

Required Parameter	Benchmark Value
• Oil and Grease	No visible sheen (15 mg/L)
• pH	6.0 – 9.0 S.U.
• Total Suspended Solids	100 mg/L
• Ammonia ² as N	8.41 mg/L
• Nitrates as Nitrogen	0.68 mg/l
• 5-Day BOD	30 mg/L
• Chemical Oxygen Demand	120 mg/L
• Fecal Coliform	200 colonies/100mL

Fecal coliform testing is not required at vegetable oil processing facilities.

5. Primary Metal Industries

Applicability: Any facility classified as SIC code 33.

Required Parameter	Benchmark Value
• pH	6.0 – 9.0 S.U.
• Total Suspended Solids	100 mg/L
• Lead, Total ¹	0.0816 mg/L
• Cadmium, Total ¹	0.0159 mg/L
• Arsenic, Total ¹	0.1685 mg/L
• Copper, Total ¹	0.0636 mg/L
• Zinc, Total ¹	0.117 mg/L

Facility must also test stormwater for any parameter that may be limited on discharges subject to effluent guideline limitation.

6. Hazardous Waste Treatment, Storage and Disposal

Applicability: Facilities that treat, store or dispose of hazardous wastes.

Required Parameter	Benchmark Value
• pH	6.0 – 9.0 S.U.
• Chemical Oxygen Demand	120 mg/L
• Ammonia ² as N	8.41 mg/L
• Arsenic, Total ¹	0.1685 mg/L
• Cadmium, Total ¹	0.0159 mg/L
• Lead, Total ¹	0.0816 mg/L
• Silver, Total ¹	0.0318 mg/L
• Cyanide, Total ¹	0.0636 mg/L
• Mercury, Total ¹	0.0024 mg/L
• Selenium, Total ¹	0.2385 mg/L

Once during the 5 year term of the permit the stormwater discharges must also be tested for the following parameters: Hardness as CaCO₃, Total Dissolved Solids, Sodium, Calcium, Magnesium, Chloride, Sulfate and Carbonates.

This permit does not authorize the discharge of waters which have come into direct contact with landfill wastes, leachate, gas collection condensate, drained free liquids, contaminated ground water, facility wastewater, contact wash water from washing truck or equipment exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

7. Landfills and Land Application

Applicability: Facilities associated with waste disposal at landfills, land application sites and open dumps that receive industrial waste.

Required Parameter	Benchmark Value
• pH	6.0 – 9.0 S.U.
• Total Suspended Solid	100 mg/L
• Chemical Oxygen Demand	120 mg/L
• Lead, Total ¹	0.0816 mg/L
• Oil and Grease	No visible sheen (15 mg/L)

This permit does not authorize the discharge of waters which have come into direct contact with landfill wastes, leachate, gas collection condensate, drained free liquids, contaminated ground water, facility wastewater, contact wash water from washing truck or equipment exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

8. Automobile Salvage Yards

Applicability: Facilities engaged in dismantling or wrecking used motor vehicles for parts recycling/resale and for scrap; SIC code 5015.

Required Parameter	Benchmark Value
• Oil and Grease	No visible sheen (15 mg/L)
• pH	6.0 – 9.0 S.U.
• Total Suspended Solids	100 mg/L
• Chemical Oxygen Demand	120 mg/L
• Lead, Total ¹	0.0816 mg/L

The SWPP plan must include measures to prevent and respond to leaks and spills of fluids. The plan must also address specific processing and storage practices for materials and parts that present a potential environmental concern. A minimum list of materials and parts presenting environmental concern along with corresponding best management practices are outlined in the Division of Waste Management's *Guideline 37 – Environmentally Friendly Auto and Metal Salvage Facilities*. The guideline, or similar salvage industry BMP guide, may be used as part of a facility's SWPP.

9. Scrap Recycling Facilities

Applicability: Facility engaged in processing, reclaiming and distribution of metal scrap and other waste materials; SIC code 5093.

Required Parameter	Benchmark Value
• Oil and Grease	No visible sheen (15 mg/L)
• pH	6.0 – 9.0 S.U.
• Total Suspended Solids	100 mg/L
• Chemical Oxygen Demand	120 mg/L
• Copper, Total ¹	0.0636 mg/L
• Lead, Total ¹	0.0816 mg/L
• Zinc, Total ¹	0.117 mg/L

The SWPP plan must include measures to prevent and respond to leaks and spills of fluids. The plan must also address specific processing and storage practices for materials and parts that present a potential environmental concern. A minimum list of materials and parts presenting environmental concern along with corresponding best management practices are outlined in the Division of Waste Management's *Guideline 37 – Environmentally Friendly Auto and Metal Salvage Facilities*. The guideline, or similar salvage industry BMP guide, may be used as part of a facility's SWPP.

10. Air Transportation

Applicability: Regional and Primary commercial Airports and Air Force Bases	
Required Parameter	Benchmark Value
• pH	6.0 – 9.0 S.U.
• Ammonia ² as N	8.41 mg/L
• Nitrates as Nitrogen	0.68 mg/l
• 5-Day BOD	30 mg/L
• Chemical Oxygen Demand	120 mg/L

PRIMARY COMMERCIAL SERVICE AIRPORTS AND US AIR BASES shall conduct monthly sampling beginning with the first month of deicing activities through the final month of deicing activities. REGIONAL COMMERCIAL SERVICE AIRPORTS shall sample at least once per year; a discharge sample should be collected during deicing activities if possible. For purposes of any sampling waiver request, the data from the past 4 years of sampling will be considered.

All facilities are encouraged to implement a program to control or manage contaminated runoff to reduce the amount of pollutants being discharged from the site. BMP options (or their equivalents) to consider include: a dedicated deicing facility with a runoff collection/recovery system; storing contaminated stormwater/deicing fluids in tanks and releasing controlled amounts to a publicly owned treatment works; and directing runoff into vegetative swales or other treatment systems. Also consider recovering deicing materials when these materials are applied during non-precipitation events (e.g., covering storm sewer inlets, using absorptive booms, etc.) to prevent these materials from being released later.

All facilities shall include a summary with their annual reports which indicates the amounts of deicing materials used during the year.

11. Baseline Parameters

Applicability: Facilities directed to sample by the Department, but not listed in Items 1 - 10	
Required Parameter	Benchmark Value
• Oil and Grease	No visible sheen (15 mg/L)
• pH	6.0 – 9.0 S.U.
• Total Suspended Solids	100 mg/L
• Phosphorus, Total	2.0 mg/L
• Ammonia ² as N	8.41 mg/L
• Nitrates as Nitrogen	0.68 mg/l
• 5-Day BOD	30 mg/L
• Chemical Oxygen Demand	120 mg/L

Notes:

1 Hardness dependent; values given are based on a water hardness of 100 mg/L as CaCO₃.

2 Ammonia is pH dependent; value given is based on a pH of 8.0 s.u. TKN values obtained under prior permits may be considered in place of ammonia for sample waivers under Item 9 of appendix 2.

Appendix 2 – Stormwater Sampling Requirements, Procedures and Conditions

Applicable to facilities conducting a sampling based monitoring program.

1. **Sample frequency and test parameters.** The facilities with industrial activities listed in Appendix 1 or are notified to sample by the Department must, at a minimum, collect grab samples of stormwater discharges on an annual basis. The minimum parameters to be tested are listed in Appendix 1 by type of facility (industrial activity).
2. **Sample procedures.**
 - a. All samples and measurements taken shall be representative of the discharge. Samples shall be collected from discharges resulting from a storm event that is greater than 0.1 inches in magnitude and that has occurred at least 72 hours from the last 0.1-inch or greater storm event which generated runoff. Snowmelt which generates runoff considered equivalent to or greater than a 0.1-inch precipitation event qualifies for sampling purposes. However, no more than one sample per year for each sampling site can be from a snowmelt event.
 - b. For discharges from holding ponds or other impoundments with a 24-hour or greater retention capability, grab samples of the discharge may be obtained at any time. For all other discharges, grab samples shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample may be taken during the first hour of the discharge, provided the permittee submits a description of why the grab sample could not be obtained during the first 30 minutes with the DMR.
 - c. For storm events sampled, the permittee shall record the date and duration (in hours) of the event, rainfall amount or estimates (in inches) of the event, the approximate duration since the end of the last 0.1-inch or greater storm event which generated runoff, and an estimate of the size of the drainage area. The information shall also be included on DMRs. The permittee shall have the option of maintaining a rain gauge at his site or utilizing the nearest National Weather Service rain gauge station. Any gauge station used shall be located within 10 miles of the stormwater discharge.
3. **Impractical or adverse conditions.** When a permittee is unable to collect samples due to impractical or adverse climatic conditions, the discharger must submit in lieu of sampling data a description of why samples could not be collected, including available documentation of the event. Impractical or adverse climatic conditions which may prohibit the collection of samples include: normal non-working hours, nightfall, or weather conditions that create dangerous conditions for personnel (local flooding, high winds, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impractical (drought, extended frozen periods, etc.).
4. **Representative sampling.** When a facility has two or more outfalls which the permittee believes would discharge substantially identical effluents, based on the features and activities within the areas drained by the outfalls, the permittee may submit a representative sampling plan in which at least 20 percent of all outfalls would be monitored. Permittees wishing to utilize this option shall submit documentation as to why they believe discharges from the sites will be substantially similar and also identify their proposed sampling sites. Upon approval by the Department, the representative sampling plan can be implemented.

5. **Equivalent monitoring plans.** Where appropriate, results for monitoring plans developed for other regulatory agencies or other purposes can be used for the requirements of this permit. The alternative monitoring plans can only be implemented upon written request by the permittee and subsequent written approval by the Department. When it is not feasible to develop a monitoring plan based on the percentage of outfalls, an alternative monitoring plan representative of the features and activities impacting stormwater outfalls may be developed. The alternative plan must contain an explanation of why a percentage based plan is impracticable and how the plan is representative of the stormwater discharges at the facility.
6. **Test Procedures.** The collection and transportation of all samples shall conform with EPA preservation techniques and holding times. All laboratory tests shall be performed by a certified laboratory in conformance with test procedures pursuant to 40 CFR 136. The method of determining the total amount of water discharged shall provide results within reasonable accuracy.
7. **Recording of Results.** For each sample taken, the name of the sampler, the exact place, and the date and time of the sampling shall be recorded. For each sample analyzed, the name of the laboratory, the name of the analyzer, the analytical techniques used, the test results, and the date and time of the analysis shall be recorded.
8. **Additional Monitoring.** If the discharge is monitored more frequently than this permit requires, all additional results, if in compliance with item 6, Test Procedures, shall be included in the summary on the Discharge Monitoring Report.
9. **Sampling Waiver.** A permittee may seek a waiver from all or part of the sampling requirements outlined in Appendix 1 by demonstrating that the conditions listed below have been met. The waiver (or reduction in sampling) may be pursued on both a parameter by parameter and outfall by outfall basis. The waiver request must be submitted to the Department for approval. The approval of any waiver will be based on the following conditions:
 - a. At least four (4) samples must have been collected and analyzed from a discharge point where sampling is required for the parameter(s) being considered. The samples may have been obtained over the course of one year or several years. The results from the four (4) most recent samples must have an average concentration below the benchmark value listed in Appendix 1. A summary of all available monitoring data should be included in the request.
 - b. The industrial activities at the site (such as materials handling and storage, chemical use, waste disposal practices, erosion controls, and other types of industrial activities) have not changed since the samples were taken in any way that could have an adverse impact on stormwater quality.
 - c. This waiver is not applicable to sampling for parameters which are required due to effluent limits in the permit.